

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Paul Baron	Team: Team # 4	CCRB Case #: 201010284	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 07/25/2010 11:00 PM	Location of Incident: § 87(2)(b) § 87(2)(b) unknown location inside of moving NYPD vehicle.		Precinct: 79	18 Mo. SOL 1/25/2012	EO SOL 1/25/2012
Date/Time CV Reported Mon, 07/26/2010 12:01 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 07/28/2010 12:08 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Marko Sikiric	26207	946251	090 PCT
2. Officers			
3. POM Dennis Westbrook	19650	947605	PBBN
4. POM Darrin Markowitz	05431	948087	PBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Hector Santini	02205	947296	PBBN
2. SGT Derrick Garcia	04112	922393	PBBN
3. SGT Sean McLaine	01020	930705	PBBN
4. SGT Douglas Biegler	00150	905787	PBBN
5. POM Jesus Tavarez	29121	946310	PBBN
6. POM Daniel Weglarz	10831	947597	PBBN
7. POM Jonathan Dones	27390	948203	PBMS

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Discourtesy: Officers spoke obscenely to § 87(2)(b) in front of § 87(2)(b)	
B. Officers	Abuse: Officers threatened § 87(2)(b) and individuals with the use of force in front of § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
C.POM Dennis Westbrook	Discourtesy: PO Dennis Westbrook spoke obscenely to § 87(2)(b) and § 87(2)(b) in front of § 87(2)(b)	
D. Officers	Force: Officers used physical force against § 87(2)(b) in front of § 87(2)(b)	
E.POM Marko Sikiric	Force: PO Marko Sikiric used pepper spray against § 87(2)(b) at an unknown location, inside of a moving NYPD vehicle.	
F.POM Dennis Westbrook	Abuse: PO Dennis Westbrook threatened § 87(2)(b) with the use of force in front of § 87(2)(b)	
G.POM Dennis Westbrook	Abuse: PO Dennis Westbrook threatened to damage § 87(2)(b)'s property in front of § 87(2)(b)	
H.POM Darrin Markowitz	Abuse: PO Darrin Markowitz threatened § 87(2)(b) with the use of force at § 87(2)(b)	
I.POM Darrin Markowitz	Discourtesy: PO Darrin Markowitz spoke rudely to § 87(2)(b) at § 87(2)(b)	

Case Summary

On July 26, 2010, § 87(2)(b) and § 87(2)(b) filed complaints with IAB (**enc. 5**), which were received by the CCRB on July 28, 2010 (**enc. 6**). They reported that on July 25, 2010, at approximately 11:00 PM, PO Hector Santini, assigned to Patrol Borough Brooklyn North, arrested § 87(2)(b) and § 87(2)(b) in front of § 87(2)(b) in Brooklyn. The following allegations stemmed from the officers' actions:

- **Allegation A- Discourtesy:** Officers spoke obscenely to § 87(2)(b) in front of § 87(2)(b).
- **Allegation B- Abuse of Authority:** Officers threatened § 87(2)(b) and individuals with the use of force in front of § 87(2)(b).
- **Allegation D- Force:** Officers used physical force against § 87(2)(b) in front of § 87(2)(b) § 87(2)(g).
- **Allegation C- Discourtesy:** PO Dennis Westbrook spoke obscenely to § 87(2)(b) and § 87(2)(b) in front of § 87(2)(b) § 87(2)(g).
- **Allegation E- Force:** PO Marko Sikiric used pepper spray against § 87(2)(b) at an unknown location, inside of a moving NYPD vehicle. § 87(2)(g).
- **Allegation F- Abuse of Authority:** PO Dennis Westbrook threatened § 87(2)(b) with the use of force in front of § 87(2)(b).
- **Allegation G- Abuse of Authority:** PO Dennis Westbrook threatened to damage § 87(2)(b)'s property in front of § 87(2)(b) § 87(2)(g).
- **Allegation H- Abuse of Authority:** PO Darrin Markowitz threatened § 87(2)(b) with the use of force at § 87(2)(b).
- **Allegation I- Discourtesy:** PO Darrin Markowitz spoke rudely to § 87(2)(b) at § 87(2)(b) § 87(2)(g).

Results of Investigation

Civilian Statement(s)

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) -year-old black male with black hair and brown eyes, 5'6" and 150 pounds.
- § 87(2)(b).

§ 87(2)(b) was interviewed at the CCRB on August 26, 2010 (**enc. 7**). He reported that on July 25, 2010, at approximately 11:00 PM, he was in front of § 87(2)(b)'s house, § 87(2)(b) for a block party. § 87(2)(b) drank one or two beers but had no drugs on his person. § 87(2)(b)'s friends, § 87(2)(b) and § 87(2)(b) were sitting on the porch of

§ 87(2)(b) PO Santini approached § 87(2)(b) who had been smoking a cigarette and had thrown it to the ground. PO Santini told § 87(2)(b) that someone had to take a summons. § 87(2)(b) refused to take a summons and he and § 87(2)(b) were eventually arrested. PO Santini called for backup and several police vehicles responded. § 87(2)(b) used his phone to record the incident. An officer told § 87(2)(b) that if he got too close, he would be arrested for disorderly conduct.

§ 87(2)(b) heard the following comments come from a group of about ten unknown officers: “fuck you,” “fuck your camera,” “we’re going to break your camera; we’re going to take you to the precinct and you won’t do shit,” “yeah, we’ll beat you up.” PO3 (black male, chubby build, 5’8”-6’, late thirties) told § 87(2)(b) “Fuck you.” Officers approached § 87(2)(b) and asked for his identification, which he provided. PO Westbrook told § 87(2)(b) “Fuck that,” “Fuck your camera,” “We’ll fuck you up,” “We don’t give a fuck,” and “You think that camera means shit?” § 87(2)(b) told the officers to let him go. PO Westbrook said “fuck that” and grabbed one of § 87(2)(b) s arms. Other officers, whom § 87(2)(b) could not describe, grabbed his legs and lifted him in the air. Officers, whom he could not see, struck him several times in his ribs. The officers dropped § 87(2)(b) onto the hood of a car, injuring his lower back.

The officers handcuffed § 87(2)(b) and placed him inside of a marked van. PO Sikiric stuck his hand in § 87(2)(b) s pocket, pulled out a bag of marijuana, and then placed it back in § 87(2)(b) s pocket. § 87(2)(b) argued with PO Sikiric, stating that the bag was not his, while sitting still in the van. PO Sikiric pepper sprayed § 87(2)(b) PO Sikiric pushed § 87(2)(b) backwards into a seat. § 87(2)(b) closed his eyes and felt his ribs get punched repeatedly. He never opened his eyes while being punched and could not describe which officer(s) struck him. § 87(2)(b) was taken to the stationhouse and then to § 87(2)(b) along with § 87(2)(b) PO Westbrook cursed at § 87(2)(b) in the stationhouse and hospital, but § 87(2)(b) could not remember the specific curses. § 87(2)(b) accidentally deleted the video footage from his phone.

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) -year-old black male, 5’11”, 160 pounds, dreadlocks, brown eyes, § 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on August 26, 2010 (enc. 9) § 87(2)(g)

§ 87(2)(b) He observed the incident from inside of the enclosed front porch of § 87(2)(b) (enc. 4a). PO Westbrook approached § 87(2)(b) s § 87(2)(b) and pushed on the closed porch door in order to try and enter. § 87(2)(b) pushed the door from the inside, to keep it closed, with assistance from § 87(2)(b) § 87(2)(b) s German shepherd was inside of the porch, and was barking. PO Westbrook drew his gun, pointed it at § 87(2)(b) and stated, “Motherfucker, I’m going to shoot you.” The gate door was still closed. § 87(2)(b) pushed his dog behind his chair. PO Westbrook said, “Put out the dog and let me shoot that shit.” PO4 (tall, thin, uniform, Asian male, 29, black hair) swung his nightstick in the direction of a civilian named “Jack.” A civilian, whose contact information § 87(2)(b) refused to provide, told § 87(2)(b) that officers had punched him while he was in the alleyway next to § 87(2)(b) § 87(2)(b) did not observe this occur.

Victim: § 87(2)(b)

- § 87(2)(b) -year-old black male, 6’3”, 250 pounds.

§ 87(2)(b) provided a phone statement to the CCRB on September 15, 2010 (enc. 10).

§ 87(2)(g)
§ 87(2)(b) and § 87(2)(b) were placed in a van, and before the van left § 87(2)(b) § 87(2)(b) observed a group of officers grab § 87(2)(b) and slam him to the ground. An

unidentified officer pepper sprayed § 87(2)(b) PO Westbrook elbowed § 87(2)(b) in the head while § 87(2)(b) was on the ground. PO Westbrook also cursed at § 87(2)(b) but § 87(2)(b) could not recall any specific discourtesies. At the hospital, inside the X-Ray room, PO Markowitz told § 87(2)(b) “I’m tired of your shit. If you don’t shut up, I’m going to have to fuck you up.” A male x-ray technician was present. § 87(2)(b) later urinated in his pants and Markowitz called him a “nasty piece of shit.”

Witness: § 87(2)(b)

- § 87(2)(b) -year-old white female.

Witness: § 87(2)(b)

- § 87(2)(b) -year-old black female with black hair and brown eyes, 5’4” and 160 pounds.

§ 87(2)(b) provided a phone statement on September 15, 2010 (**enc. 12**). § 87(2)(b) provided a phone statement on August 26, 2010 and was interviewed at the CCRB on December 8, 2010 (**enc. 11**). § 87(2)(g)

§ 87(2)(b) observed the incident from her doorway at § 87(2)(b) § 87(2)(b) did not personally observe any officer strike § 87(2)(b) but she heard unknown civilians yell out that officers were hitting him. § 87(2)(b) heard § 87(2)(b) say, “You can’t come in here and shoot me and shoot my dog.” She did not hear an officer threaten to shoot him or his dog. Officers cursed, but § 87(2)(b) refused to repeat the wording of the profanity to the CCRB.

Witness: § 87(2)(b)

- Indian male, born in § 87(2)(b)

§ 87(2)(b) provided a phone statement to the CCRB on February 11, 2011 (**enc. 13**). He was identified as the § 87(2)(b) for § 87(2)(b) by the HR department at § 87(2)(b) § 87(2)(b) did not recall the specific incident and stated that many of his patients that are escorted by police. § 87(2)(b) has never heard an officer state, “I’m tired of your shit; if you don’t shut up, I’m going to have to fuck you up,” or make any similar comments. He never heard an officer call a civilian a “nasty piece of shit,” or curse at any civilian inside the X-Ray room.

Attempts to Contact Civilians

- § 87(2)(b) missed his interview scheduled for September 14, 2010. The undersigned spoke with § 87(2)(b) on September 21, 2010, and stated that he needed to provide a phone statement by September 25, 2010. § 87(2)(b) has not contacted the CCRB since.
- On September 10, 2010, the undersigned canvassed the incident location. No surveillance cameras were found that could have captured the incident. A young black male, who was standing in front of § 87(2)(b) stated that he observed officers “beat up § 87(2)(b) He refused to provide a statement or his name.
- The undersigned called three phone numbers on whitepages.com of civilians that lived within four houses of the incident location. The numbers were either disconnected or the civilians stated they did not observe the incident.
- § 87(2)(b) and § 87(2)(b) were told to have their witnesses contact the CCRB. A phone number could not be obtained for § 87(2)(b) so the undersigned mailed him two contact letters. Three voicemails were left for § 87(2)(b) and she was sent two contact letters. § 87(2)(b) refused to provide the contact information for her niece, who was a witness. No witnesses contacted the CCRB about this incident (**enc. 38**).

NYPD Statement(s):

Witness Officer: PO HECTOR SANTINI

- § 87(2)(b) -year-old Hispanic male, 6', 185 pounds, bald, brown eyes
- 5:30 PM on July 26, 2010 to 2:05 AM on July 27, 2010, Brooklyn North Impact Response Team, Post 33, (Vernon Avenue between Marcus Garvey Blvd. and Thompkins Ave), uniform
- Since the incident, PO Santini was reassigned to Patrol Borough Brooklyn North.

CCRB Statement

PO Santini was interviewed at the CCRB on December 23, 2010 (enc. 14). § 87(2)(g) [REDACTED] On July 25, 2010, at approximately 11:00 PM, he observed § 87(2)(b) [REDACTED] smoking a marijuana cigarette on the sidewalk opposite of § 87(2)(b) [REDACTED]. PO Santini approached § 87(2)(b) [REDACTED] § 87(2)(b) [REDACTED] grabbed the lit cigarette from § 87(2)(b) [REDACTED] s hand and threw it on the ground. PO Santini told § 87(2)(b) [REDACTED] that he could retrieve the marijuana cigarette and be given a summons for possession of marijuana, or he could "make things more difficult for himself." § 87(2)(b) [REDACTED] denied PO Santini's accusations that anyone had used marijuana, and PO Santini placed him in handcuffs. The crowd of civilians intimidated PO Santini by yelling and cursing; as such, he called for backup. PO Santini did not observe any officer draw their nightstick. Before the van containing § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] left the location, PO Santini heard officers instruct the crowd to back up. He did not curse or hear any other officer do so. PO Santini observed one or two unknown officers take out their pepper spray canisters, but did not know if they were used. He did not threaten any civilian with force, nor did he hear any other officer do so. He did not observe officers interact with § 87(2)(b) [REDACTED] or § 87(2)(b) [REDACTED].

Subject Officer: PO MARKO SIKIRIC

- § 87(2)(b) [REDACTED] -year-old white male, blonde hair, brown eyes, 5'10", 170 pounds
- Brooklyn North Impact Response Team- 5:30 PM on July 25, 2010 to 2:05 AM on July 26, 2010; in uniform, marked scooter, #485.
- Since the incident, PO Sikiric was reassigned to the 90th Precinct.

Arrest Report and Criminal Court Complaint

§ 87(2)(a) 160.50 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CCRB Statement

PO Sikiric was interviewed at the CCRB on December 17, 2010 (enc. 15). § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED] PO Sikiric did not draw his nightstick or observe anyone else do so. PO Sikiric did not curse or hear any other officer curse. § 87(2)(b) [REDACTED] held his camera phone in the officers' faces. Officers repeatedly told him to back up and to remove the camera from their faces. PO Sikiric did not recall an officer threatening a civilian with the use of force. PO Sikiric threatened to arrest § 87(2)(b) [REDACTED] if he did not back up. § 87(2)(b) [REDACTED] did not comply. PO Sikiric and PO Westbrook handcuffed § 87(2)(b) [REDACTED] while he was standing. PO Sikiric never punched § 87(2)(b) [REDACTED] nor did any

other officer. PO Sikiric did not observe PO Westbrook interact with § 87(2)(b) § 87(2)(b) was never dropped on the hood of a vehicle and PO Sikiric did not recall § 87(2)(b) ever being on the ground. § 87(2)(b) stuck out his legs to resist being placed in the van. Once inside the vehicle, § 87(2)(b) repeatedly tried to jump over the seats. PO Sikiric placed his weight on § 87(2)(b)'s legs and held on to § 87(2)(b)'s torso, but he never punched § 87(2)(b). PO Sikiric could not restrain § 87(2)(b) on his own, so he pepper sprayed him. The vehicle was in motion when this occurred.

Subject Officer: PO DENNIS WESTBROOK

- § 87(2)(b) -year-old black male, black hair, brown eyes, 5'5", 175 pounds
- Brooklyn North Impact Response Team- 5:30 PM on July 25, 2010 to 2:05 AM on July 26, 2010; in uniform, foot post #23, with PO Tavaréz.
- Since the incident, PO Westbrook was reassigned to Patrol Borough Brooklyn North.

PO Westbrook was interviewed at the CCRB on December 16, 2010 (enc. 16). § 87(2)(g)

§ 87(2)(b) The officers told § 87(2)(b) he would be arrested for yelling and causing public alarm. PO Westbrook repeatedly told § 87(2)(b) to move his camera, and eventually said, "Get the fucking camera out of my face." PO Westbrook did not curse any other time and never heard another officer curse. PO Sikiric told § 87(2)(b) that he was being arrested and § 87(2)(b) started to flail his arms. PO Westbrook, PO Sikiric and two or three other officers grabbed § 87(2)(b)'s arms and went to the ground with him. § 87(2)(b) did not make contact with any vehicle. Several civilians stated aloud that the officers hit § 87(2)(b). PO Westbrook did not punch § 87(2)(b) nor did any other officer. PO Westbrook did not threaten any civilian with the use of force, nor did any other officer. No one threatened to break § 87(2)(b)'s camera. PO Westbrook did not observe an officer draw their nightstick.

PO Westbrook did not assist in placing § 87(2)(b) in the marked van. After the van left, the crowd started to curse and throw bottles. PO Westbrook approached § 87(2)(b) § 87(2)(b) exited the house and stood inside its gated porch. § 87(2)(b) threatened to sic his dog on the officers and then he let his dog out of the house. The dog started barking and walked to the gate's door, which was wide open. PO Westbrook pointed his gun at the dog and told § 87(2)(b) that he would shoot the dog if it was released. § 87(2)(b) put his dog back inside the house and PO Westbrook holstered his weapon. PO Westbrook never threatened to shoot § 87(2)(b) never cursed at § 87(2)(b) and never pointed his gun anywhere besides at the dog. PO Westbrook went to the stationhouse and then escorted § 87(2)(b) and § 87(2)(b) to § 87(2)(b)

Witness Officer: SGT. DOUGLAS BIEGLER

- § 87(2)(b) -year-old white male, brown hair, blue eyes, 6', 225 pounds
- 79th Precinct- 5:30 PM on July 25, 2010 to 2:10 AM on July 26, 2010; in uniform, Patrol Supervisor, with PO Weglarz, marked van, # 5981.

Witness Officer: PO DANIEL WEGLARZ

- § 87(2)(b) -year-old white male, blonde hair, green eyes, 6'2", 220 pounds

Witness Officer: SGT. DERRICK GARCIA

- § 87(2)(b) -year-old Hispanic male, black hair, brown eyes, 6'2", 160 pounds
- Brooklyn North Impact Response Team- 5:15 PM on July 25, 2010 to 2:12 AM on July 26, 2010; in uniform, Impact Supervisor, with PO Sanchez; marked RMP, 1651.

Witness Officer: PO JESUS TAVAREZ

- § 87(2)(b) -year-old Hispanic male, black hair, brown eyes, 5'10", 180 pounds
- 79th Precinct- 5:30 PM on July 25, 2010 to 2:05 AM on July 26, 2010; in uniform, with PO

Westbrook, foot post 22.

- *Since the incident, these four officers were reassigned to Patrol Borough Brooklyn North.*

Sgt. Biegler was interviewed at the CCRB on February 8, 2011. PO Weglarz and PO Tavaréz were interviewed at the CCRB on January 14, 2011. Sgt. Garcia was interviewed at the CCRB on January 7, 2011. § 87(2)(g)

§ 87(2)(b) (enc. 17, 18, 20, 21). The officers grabbed § 87(2)(b) § 87(2)(b)'s arms to handcuff him and lifted him in the air in order to place him in the van, because § 87(2)(b) used his feet to push off the van to prevent being placed inside. None of the officers observed § 87(2)(b) get dropped on the hood of a car. PO Weglarz heard § 87(2)(b) yell "stop punching me," both inside and outside of the van; however, every officer denied punching § 87(2)(b) or observing any other officer do so. § 87(2)(b) did not sit still and attempted to move into the first row of seats. PO Sikiric pepper sprayed § 87(2)(b) § 87(2)(b) complained of back pain from a prior car accident while at the stationhouse. The officers did not observe PO Westbrook interact with § 87(2)(b). None of the officers cursed, threatened a civilian with force, or threatened to damage a civilian's property, nor did they hear any other officer do so. Sgt. Biegler observed officers draw their nightsticks, but did not observe any officer swing them at a civilian.

Subject Officer: PO DARRIN MARKOWITZ

- § 87(2)(b) -year-old white male, 5'4", 185 pounds, bald, brown eyes.

Witness Officer: PO JONATHON DONES

- § 87(2)(b) -year-old Hispanic male, 5'10", 165 pounds, black hair, brown eyes.
- 5:30 PM on July 26, 2010 to 2:05 AM on July 27, 2010, Brooklyn North Impact Response Team, Foot Post, uniform.
- *Since the incident, PO Markowitz was reassigned to Patrol Borough Brooklyn North and PO Dones was reassigned to Patrol Borough Manhattan South.*

CCRB Statement

PO Markowitz was interviewed at the CCRB on December 23, 2010 (enc. 19). PO Dones was interviewed at the CCRB on January 5, 2010 (enc. 20). § 87(2)(g)
§ 87(2)(b) Neither officer responded to Vernon Avenue during their shift. PO Dones and PO Markowitz relieved PO Westbrook and PO Tavaréz at § 87(2)(b) § 87(2)(b) and § 87(2)(b) were in the X-Ray waiting room. PO Markowitz went into the X-Ray room with § 87(2)(b) and the male X-Ray technician. § 87(2)(b) flailed his legs and arms and was loud. PO Markowitz told § 87(2)(b) to be quiet. He did not tell § 87(2)(b) that he was "tired of his shit." He never threatened him with force or threatened to "fuck him up." PO Dones was not in the X-Ray room and denied hearing any of the allegations. Later, a nurse gave § 87(2)(b) a bucket to urinate in, but § 87(2)(b) dropped the bucket while he was urinating. Both officers denied that PO Markowitz called § 87(2)(b) a "nasty piece of shit."

Medical Records

- § 87(2)(b) arrived at § 87(2)(b) at § 87(2)(b), with both eyes red from pepper spray. EMS reported that § 87(2)(b) had resisted arrest. He complained of pain in his neck (whenever it moved) and pain in his lower back. Pain level was "3/10" and described as "aching." He was diagnosed with a muscle strain. § 87(2)(b) returned on § 87(2)(b) with pain to his right thumb, lower back, right thigh and right knee caused by the police during the same arrest. He had a mild decreased range of motion in his thumb. The pain level was an "8/10" and described as "stabbing" (enc. 23).

NYPD Document(s)

Command Log

- § 87(2)(b) had a previous back injury and requested medical attention. § 87(2)(b) had a previous arm injury and a hand injury cause by punching a cell wall. Both civilians were taken to § 87(2)(b) (enc. 29).

Arrest Reports/Criminal Court Complaint

- § 87(2)(a) 160.50, [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[§ 87(2)(b)]
[§ 87(2)(b)]

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[§ 87(2)(b)]

Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of November 24, 2010, with regard to the incident (enc. 37).

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[§ 87(2)(b)]
[§ 87(2)(b)]
[§ 87(2)(b)]
[§ 87(2)(b)]

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) or § 87(2)(b) (enc. 3).

Subject Officer(s) CCRB History

- PO Westbrook and PO Sikiric have been members of the service for two years and there are no substantiated CCRB allegations against either of them. PO Markowitz has been a member of the service for one year; there are no substantiated CCRB allegations against him (enc. 2).

Conclusion

Identification of Subject Officer(s)

- It is undisputed that PO Westbrook pointed his gun at § 87(2)(b)'s dog and escorted § 87(2)(b) to the hospital. § 87(2)(g)
[§ 87(2)(b)]
[§ 87(2)(b)] PO Sikiric confirmed pepper spraying § 87(2)(b) PO Markowitz confirmed being the officer that escorted § 87(2)(b) into the X-Ray room, § 87(2)(g)
[§ 87(2)(b)]
- § 87(2)(b) could not identify the officers that used discourteous language, threatened him with force, and used physical force against him. The only officer he did describe did not match the description of any officers identified as having responded to the incident. § 87(2)(b) alleged that an Asian male threatened § 87(2)(b) with force, but no Asian male officers were identified as responding to the incident, and no contact information could be obtained for § 87(2)(b) No one corroborated these allegations; § 87(2)(g)
[§ 87(2)(b)]

§ 87(2)(g)

Investigative Findings and Recommendations

Allegations Not Pled

- § 87(2)(g)
- § 87(2)(b) alleged that PO Westbrook cursed at him in the stationhouse and in the ambulance; however, he could not specify any use of profanity, nor could any other civilians. § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(b) alleged that a civilian, whose contact information he refused to provide, told him that officers had punched him during the incident. No one, including § 87(2)(b) stated they observed this interaction occur. § 87(2)(g)

Allegation A- Discourtesy: Officers spoke obscenely to § 87(2)(b) in front of § 87(2)(b)

Allegation B- Abuse of Authority: Officers threatened § 87(2)(b) and “§ 87(2)(b) with the use of force in front of § 87(2)(b)

§ 87(2)(b) alleged that in front of § 87(2)(b) a group of ten unidentifiable officers (see officer identification section) said to him, “Fuck you,” “Fuck your camera,” “We’re going to break your camera,” and “We’ll beat you up.” § 87(2)(b) alleged that another unidentifiable officer swung his nightstick towards a civilian named “§ 87(2)(b) whose could not be reached by the CCRB. No civilian corroborated the specific discourtesy or threat of force allegations made by § 87(2)(b) or § 87(2)(b). Every officer interviewed denied cursing § 87(2)(g) or hearing anyone else curse. Every officer interviewed denied making, observing, or hearing any threats of force. § 87(2)(g)

Allegation C- Discourtesy: PO Dennis Westbrook spoke obscenely to § 87(2)(b) and § 87(2)(b) in front of § 87(2)(b)

§ 87(2)(b) alleged that PO Westbrook told him, “Fuck that,” “Fuck your camera,” “We don’t give a fuck,” and “We’ll fuck you up.” § 87(2)(b) alleged that PO Westbrook called him a “motherfucker.” No civilians or witness officers corroborated hearing any of these discourtesies. PO Westbrook, however, acknowledged telling § 87(2)(b) “Get the fucking camera out of my face,” after § 87(2)(b) had ignored multiple prior instructions to do so. He denied cursing at any other time during the incident. § 87(2)(g)

No civilians corroborated the specific discourtesy allegations made by § 87(2)(b) or § 87(2)(b)

In the Police Department v. Dukes, OATH Index Nos. 1137-39/00 (2000) (encl. 1b), officers arrested a motorist for disorderly conduct after the motorist loudly and profanely challenged the officer's authority to issue him a summons and refused to return to his vehicle as ordered. When told he was being placed under arrest, the motorist demanded to know why one of the officers told him, "You think you're a fucking wise guy." The judge found that this language was not misconduct because it was used in the context of arresting the motorist and attempting to ensure

his submission to handcuffs and, as such, has consistently been held not to be misconduct. [REDACTED]

§ 87(2)(g)

Allegation D- Force: Officers used physical force against [REDACTED] in front of [REDACTED]

[REDACTED] § 87(2)(b) alleged that officers, whom he could not see, struck him several times in his ribs as they carried him in the air. The officers carrying him then dropped him onto the hood of a car, injuring his lower back. After § 87(2)(b) was inside of the NYPD van, he felt his ribs get punched repeatedly, but he had his eyes closed while this occurred. § 87(2)(b) did not corroborate § 87(2)(b)'s statement regarding his force allegations. None of the civilian witnesses observed any officer punch § 87(2)(b) or lift him up and drop him on a car. Every officer interviewed denied that § 87(2)(b) was dropped on the hood of a vehicle. § 87(2)(b) stated she heard civilians yell that officers were hitting § 87(2)(b) and PO Weglarz alleged that § 87(2)(b) repeatedly yelled out "stop punching me," both inside and outside of the van. However, every officer denied punching § 87(2)(b) or observing any other officer do so. On the night of his arrest, § 87(2)(b) told hospital staff that he only had aching pain in his neck and lower back. § 87(2)(b), § 87(2)(b) had stabbing pain to his right thumb, lower back, right thigh and right knee. § 87(2)(b) filed his complaint to the CCRB in between these two hospital visits. His medical records make no mention of him having any pain or injuries to his ribs. § 87(2)(g)

Allegation E- Force: PO Marko Sikiric used pepper spray against [REDACTED] at an unknown location, inside of a moving NYPD vehicle.

It is undisputed that PO Sikiric pepper sprayed § 87(2)(b) while they were both inside of a van operated by PO Weglarz and Sgt. Biegler, and that no one else was in the vehicle. PO Weglarz denied observing any physical interaction but stated that § 87(2)(b) had been physically resistant to being put inside the vehicle, which was confirmed by multiple officers. Sgt. Biegler and PO Sikiric stated that § 87(2)(b) tried to get out of his seat and was physically resistant. They also said that PO Sikiric attempted to physically restrain § 87(2)(b) before using pepper spray. § 87(2)(b) alleged that he was arguing with PO Sikiric and made no mention of physically resisting, but added that he was pushed back into a seat after he was pepper sprayed, which indicates that he had gotten up. The Scale of Escalating Force (**enc. 1**) indicates that it is permissible to use pepper spray when threatened with physical assault likely to cause injury. [REDACTED]

§ 87(2)(g)

Allegation F: Abuse of Authority- PO Dennis Westbrook threatened [REDACTED] with the use of force in front of [REDACTED]

Allegation G: Abuse of Authority- PO Dennis Westbrook threatened to damage [REDACTED]'s property in front of [REDACTED]

It is undisputed that PO Westbrook drew his gun and threatened to shoot § 87(2)(b)'s barking dog while § 87(2)(b) and his dog were inside of the gated porch in front of § 87(2)(b). § 87(2)(b) alleged that PO Westbrook also pointed his gun at him and threatened to

shoot him. PO Westbrook denied these two allegations. § 87(2)(b) heard § 87(2)(b) state, “You can’t come in here and shoot me and shoot my dog,” but she did not hear any officer make these threats. She also did not observe any officer with their gun drawn.

§ 87(2)(b) alleged that the porch door was closed and PO Westbrook stated that the porch door was open. A dog can be shot if released by the owner and is acting aggressively towards the NYPD (enc. 1a). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation H: Abuse of Authority- PO Darrin Markowitz threatened § 87(2)(b) with the use of force at § 87(2)(b)

Allegation I: Discourtesy- PO Darrin Markowitz spoke rudely to § 87(2)(b) at § 87(2)(b)

§ 87(2)(b) alleged that inside of the hospital’s X-Ray room, PO Markowitz told him, “If you don’t shut up, I’m going to have to fuck you up.” He also alleged that PO Markowitz called him a “nasty piece of shit,” in response to him having urinated on himself. § 87(2)(b) did not corroborate these allegations. PO Markowitz and PO Dones denied that PO Markowitz made these comments. § 87(2)(b) (who was the only person in the X-Ray room besides § 87(2)(b) and PO Markowitz), stated that in all his years as § 87(2)(b), he has never heard any officer make any comments similar to those alleged by § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date